GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Social Welfare Department – Appeal Petition filed by Sri Ch. Krishna S/o. Late Deva Sahayam, Senior Assistant O/o. Commissioner of Sugar & Cane Commissioner, A.P., Hyderabad, against the proceedings No.35/2010/C4, dated 06.10.2012 of the District Collector, Guntur- under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.MS.No. 106 Dated: 28-12-2017

Read the following:

1. Proceedings of the District Collector, Guntur, Rc.No.35/2010/C4, dated 06.10.2012.
2. Appeal Petition filed by Sri Ch. Krishna, S/o late Ch. Devasahayam, Hyderabad before the then M(SW) on 20.10.2012.
3. Govt. Memo No.14388/CV.1/2012-1, S.W.(CV.1) Department, dt: 03.12.2012.
4. Govt. Letter No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 03.12.2012.
5. Govt. Memo No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 07.01.2013.
6. Govt. Letter No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 07.01.2013.
7. Govt. Memo No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 30.01.2013.
8. Govt. Letter No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 30.01.2013.
9. Govt. Memo No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 26.04.2013 , 23.05.2013, 19.07.2013 & 01.06.2015.
10. Govt. Memo No.14388/CV.1/2012, S.W.(CV.1) Department, dt: 17.10.2015.
11. Written arguments filed by the appellant before the Appellate Authority on 31.10.2015.
12. Govt. Memo No.14388/CV.1/2012, dt.08.08.2017.

ORDER:

In the reference 1st read above, the District Collector, Guntur has issued orders canceling the 'SC-Hindu Madiga' Caste Certificate obtained from the then Tahsildar, Guntur in 1983 by Sri Ch. Krishna, S/o Devasahayam, Guntur District.

2. In the reference 2nd read above, Sri Ch. Krishna, S/o Devasahayam, Guntur District has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, Guntur. After examination, Government have admitted, the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, Guntur in the reference 3rd read above.

3. The said Appeal Petition has been posted for hearing on 21.12.2012, 21.01.2013, 25.02.2013, 18.05.2013, 22.06.2013, 03.08.2013, 01.06.2015, 31.10.2015 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 3rd to 10th read above. In the reference 5th read above, the District Collector, Guntur was requested to furnish the original

[P.T.O]

admission records from the concerned schools, College as mentioned in the proceedings of the District Collector, Guntur and examine the same and also to furnish the parawise remarks on the appeal petition filed by Sri Ch. Krishna to the Government on or before 10.12.2012 for finalization of the said appeal petition. But, the report has not received so far, from the District Collector, Guntur.

4. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Guntur and proceedings of the District Collector, Guntur dated 06.10.2012, the Appellate Authority has observed as follows:

I. The Appellant in his grounds has stated that his date of birth is 25.12.1967, he was adopted by Smt. Ch.Mariyamma, and the adoption deed Doc.No.220 was executed by Smt. Ch.Mariyamma on 22.08.1983. The said document is only a record of a past adoption and reiterates an unregistered adoption deed which was executed in the year 1969. At that point of time, the age of the appellant was about 1 ½ year.

II. The appellant has also stated that the District Collector, has passed impugned order basing on the statements alleged to have been recorded by the Joint Collector & Chairman of the DLSC personally. It is pertinent to mention here that the Joint Collector alone shall not record the statements. The statements have to be recorded by the Committee. Moreover none of the alleged statements were signed by the witnesses and the District Collector has failed to appreciate the Aadi Andhra Aided Elementary School, Anjaneyapeta (Kankaragunta), Guntur, which is existed and the record is available with Mandal Educational Officer, Guntur the proof of letter is letter No.Rc.No. Special/2012, Dt.26.12.2012.

III. The District Level Scrutiny Committee has observed that by birth, the appellant belongs to Reddy (OC) Community. As per School records of SKBM Mpl. Corpo. High School, A.T. Agraharam, Guntur district the appellant belongs to Reddy caste and his date of Birth is given by the Head Master is 04.05.1963. But the date of birth was altered by the applicant as 25.12.1967. The DLSC has also reported that the appellant was adopted by Smt. Ch. Mariyamma W/o.Devashayam in the year 1983 (as per the adoption deed produced by the appellant), at that time the appellants age is around 19 years. But, Smt. Ch. Mariyamma has stated that Sri Ch. Krishna had never stayed under her care or guardianship at any point of time and never had even a single meal in her house and she belongs to Christian Madiga, she used to go to Church or prayer and she never followed Hindu religion in past, so that Christian Madiga comes under the category of "BC-C" not SC. Further, the DLSC has observed that the appellant engaged in family property transactions with his natural brother and his marriage was performed by his natural parents only for which Smt Ch. Mariyamma was not invited and he has not married SC Girl, instead he married "Reddy caste girl". Based on the recommendations of the DLSC & as per the instructions issued by the Government of India in their Circular No. 35/1//72RU (SCT-5), the District Collector, Guntur has confirmed that the appellant does not belongs to the SC-Madiga community and cancelled his SC-Madiga certificate.

IV. Further, it is observed that in Circular Memo. No. 10956/CV1/97-2, S.W (CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the adoption rules are as follows:

a) In deciding whether an adoption is valid, the certificate issuing Authority should satisfy himself that all the requirements of law

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have been complied with. He should also take into account the behavior of the child after adoption whether he physically lives with and is supported by his adoption parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.

b) In respect of the Caste Certificates, in case of adoption children by Scheduled Caste and Scheduled Tribe parents, the powers are delegated to Joint Collectors. The Joint Collectors should exercise greater care in issuing this type of certificate.

c) The Caste Certificates in the above cases shall be issued only for the children below 15 years of age. The adopted children should live for a minimum period of 5 years with the adopted parents for issue of Caste Certificates in the adoption cases.

V. The Appellate Authority has observed that the appellant is following the traditional customs of Madiga (SC) community. He admits that he originally belongs to Reddy Community and he stated that he was given in adoption to Smt. Ch. Mariyamma, W/o Late Ch. Devasahayam while he was 1 ½ year old, since he is brought by Chinthagunta Mariyamma community. As per the Sec 10(IV) of the Hindu Adoption & Maintenance Act, 1956 persons shall be capable of being taken in adoption unless the condition that the proposed (adoptee) has completed the age of fifteen (15) years is fulfilled and unless there is a custom or usage applicable to the parties which permits persons who have completed the age of 15 years being take in adoption. But the case of this appellant deposition, he was adopted under he was 1 ½ year old i.e., 1969. The statement of Smt. Mariyamma, who is alleged to be the adoptive mother of the appellant here in which is as follows:

"On 19.02.2010 before MRO, Guntur she has stated that she is a following Christian Religion, she never went to Hindu Temples, she had (3) daughters, all are married here eldest daughter is staying with her, she is depended on coolie for lively hood her daughters also dependent on coolie. She stated that after the death of her husband she resided in the house of Kolli Raghava Reddy at Ankammanagar for rent for about (1) year. At that time Kolli Raghava Reddy got prepared an adoption deed to the effect that Kolli Krishna Reddy the 2nd son was given in adoption to her. She was also stated that appellant was aged about 15 years at the time of preparation of the adoption deed".

The above statement of their cannot be relied upon, since it is recorded behind the back of the appellant by the then Mandal Revenue Inspector/Mandal Revenue Officer, Guntur. This is only oral statements, and there is no documentary evidences/ proofs which does not have any sanctity.

VI. Further, the appellate authority is observed that in the instant case the appellant was given ample opportunity to prove his case by filing relevant documents and the appellant filed following documents:-

1. A past Adoption Deed and unregistered adoption deed which was executed in the year 1969. The age of the appellant at that point of time was about 11/2 year and his date of birth is 1967 and it is also the case of the appellant that during the year 1983 an registered adoption deed Doc.No.220, dated: 22.08.1983 was executed by Smt. Ch. Mariyamma the mother who has adopted the appellant, when he was 1 ½ year age. It is persistent to mention here that the adoption take place under the said document dated: 22.08.1983.

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2. A transfer Certificate of Adi Andhra Aided Elementary School. It is clearly shows that his Date of Birth and Caste/Religion and parents names.(i.e.,25.12.1967 (Hindu-Madiga), S/o Late Ch.Devasahayam).
3. A Caste Certificate issued by Tahsildar, Guntur during the year of 1983.
4. A Matriculation Certificate issued by Andhra University, Waltair of 1984; It clearly shows that his Date of Birth and Parent names (i.e.,25.12.1967, Smt.Ch.Mariyamma and Late Ch. Devasahayam)
5. A Transfer Certificate issued by G.H.R & M.C.M.R. College, Guntur; It clearly shows that his date of Birth and Caste/ Religion.(i.e., 25.12.1967, SC-Hindu-Madiga)
6. A Technical Education Certificates and Sports/NCC Certificates; It clearly shows that his name and parents name.
7. Latest caste certificate issued by Mandal Revenue Officer, Khairatabad Mandal,Hyderabad, during the after enquiry of 2004.

Hence, the copies of the Caste Certificate issued by MRO, Guntur and Khairathabad, Hyderabad, and the School/College Certificates is sufficient to prove the Geniuses the caste/date of birth (i.e., SC-Madiga, & 25.12.1967) of the appellant which are given making enquiry.

VII. Further, the appellate authority also observes that during the conduct of Revenue enquiry, the concerned Mandal Revenue Inspector/Mandal Revenue Officer, Guntur has not properly examined the issues basing on the concerned records available and issued a report only on the complaint given by the petitioner. The Revenue authorities also personally have not gone through the School/ College certificates obtained by the Appellant from various Educational Institutions and also had not giving any opportunity to the Appellant. The Original Admission Records pertaining to the schools and college (i.e,, 1st to 4th classes in Shanti Niketan School at Brodipet 14th crossroad, Guntur, and 5th Class in Ramakrishna Vidyalayam, Nagaramapalem, Guntur and 6th class in SKMB High School, A.T. Agraharam, Guntur and Intermediate in TJPS College, Jute mill area, Pattabhipuram, Guntur) as requested by the Principal Secretary to the Government in the reference 5th cited are not produced till date.

VIII. The above statement of their cannot be relied upon, since it is recorded behind the back of the appellant by the then Mandal Revenue Inspector/ Mandal Revenue Officer, Guntur. This is only oral statements, and there is no documentary evidences/proofs which does not have any sanctity. The order of District Collector which is impugned order appeal is not in accordance with law. No opportunity of the appellant was produced to substantiate his case. As seen from the above following relevant documents/ certificates that the above 1 to 7 it is evident that the appellant was given in adoption in the year 1969 and was brought by Smt. Chinthagunta Mariyamma as per the caste customs and rites. Therefore, the appellant is entitled to be treated as SC (Hindu-madiga) and Date of Birth 25.12.1967.

5. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Sri Ch. Krishna, S/o Devasahayam, Guntur District, by upholding his Scheduled Caste (Hindu Madiga) claim, and the Proceedings of the District Collector, Guntur issued in the reference 1st read above are hereby set- aside.

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6. Consequently, the District Collector, Guntur shall take necessary action in the matter.

7. The records (containing (Rc.No.35/2010/C4, (I-III Volumes) pages: 1-755) received from the District Collector, Guntur are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, Guntur.
(with original records) (BY RPAD)

Sri Ch. Krishna S/o. Late Devasahayam, Senior Assistant
Flat No.103, Plot No.18,
Chaitnaya Apartments, Mothinagar,
Hyderabad 500 018.

The Commissioner of Sugar & Cane Commissioner,
A.P., Amaravathi (with a request to take necessary action in the matter for issue benefits)

Copy to:

The P.S. to Hon'ble Minister(SWE&TWE)
The P.S. to Principal Secretary(SW).

// FORWARDED:: BY ORDER //

SECTION OFFICER